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ORDINANCE NO. 46-119

AN ORDINANCE AMENDING SECTIONS 7.30.010, 7.30.020, 7.30.030, 7.30.040 AND 7.30.050 AND ENACTING SECTIONS 7.30.61, 7.30.062 AND 7.30.063 OF THE CODE OF THE CITY OF WICHITA, KANSAS PERTAINING TO WATER WELLS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 7.30.010, 7.30.020, 7.30.030, 7.30.040 AND 7.30.050 of the Code of the City of Wichita, Kansas shall be amended and Section 7.30.061, 7.30.062 and 7.30.063 shall be enacted to read as follows:

Section 7.30.010 Definitions.

Unless otherwise specified the following terms as used in this code shall mean as follows:

"Bacteriologically safe water sample" means a water sample collected by the health officer and analyzed by a laboratory approved by the Department of Environmental Health that is determined to have no detectable fecal coliform in 100 ml.

"Contaminated area" means an area designated by official action of the Environmental Protection Agency or Kansas Department of Health and Environment as having groundwater that is environmentally contaminated to an extent that requires remediation or similar action for the protection of human health and the environment.

"Contaminated water sample" means a water sample which does not meet public drinking water standards. A water sample that does meet public drinking water standards for bacteria is defined as being a bacteriologically safe water sample.

"Department" means the Department of Environmental Health.

“Domestic well” means a water well used by any person, family unit or entity for personal use or other applications in households or commercial, governmental, or other non-industrial applications; or for watering of livestock, poultry, farm and domestic animals; or for irrigation of lands not exceeding a total of two acres for the growing of gardens, orchards, lawns and ornamental plantings.

"Health officer" means the director of the Department of Environmental Health or his or her authorized representative.

"Non-community water supply wells" are those wells that provide groundwater to the public for human consumption and serve at least 10 service connections or serve an average of 25 or more individuals daily at least 60 days of the year.

"Personal use" means the human consumption of water from a well for purposes including drinking, cooking, bathing and sewage disposal.

"Pit well" means any well installed in a structure or excavation below grade, including but not limited to wells in pits, vaults or storm cellars.

"Screening tests" are preliminary water tests performed through the use of disposable color change strips or appliances to determine if further testing is required.

"Semi-public water wells" are those wells that provide groundwater to the public for human consumption; and serve more than one person or family unit and that has fewer than 10 service connections or serves an average of less than 25 individuals daily fewer than 60 days out of the year.

"Water well" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of the excavation is for the location, diversion, artificial recharge, or acquisition of groundwater.

Section 7.30.020 Inspection requirements.

A. The Department of Environmental Health is authorized to inspect newly constructed, reconstructed, existing, or abandoned water wells, and set a schedule of fees for inspection services. Inspection services may be provided by the City as an independent contractor.

B. A property owner or other holder of a legal interest in the property who knows or has reason to know of a water well on the property has an obligation to request a water well inspection under certain conditions. This obligation is triggered by construction, reconstruction, or abandonment of any existing active, inactive, or abandoned water well, or upon offering the property for a transfer of ownership.

Section 7.30.030 Water well sampling requirements.

A. The Department of Environmental Health is authorized to collect samples from any water well for the protection of public and environmental health. These samples may be taken for any analysis determined to be appropriate by the Director of Environmental Health. It may also be done at the request of the property owner.

B. The Department of Environmental Health is authorized to collect water samples from personal use water wells under the following circumstances:

1. Sampling shall be done for all newly constructed or reconstructed personal use water wells, and existing wells prior to the transfer of ownership of any property. These samples must at least be analyzed for bacteria and nitrates.

2. If a bacteriologically safe water sample is not obtained from a personal use well, the property owner must have the water well disinfected and sampled until a bacteriologically safe water sample is obtained.

3. If a contaminated water sample is obtained from a personal use well, the property owner must take whatever action is deemed necessary by the Department of Environmental Health to obtain a potable water supply.

C. The Department of Environmental Health is authorized to collect water samples from semi-public water wells for an annual bacteriological analysis and for organic or inorganic chemical analysis, if positive results are obtained through screening tests.

1. If a bacteriologically safe water sample is not obtained, the property owner must have the water well disinfected and sampled until a bacteriologically safe sample is obtained.

2. If a contaminated water sample is obtained, the property owner must take whatever action is deemed necessary by the Department of Environmental Health to obtain a potable water supply.

D. The Department of Environmental Health is authorized to collect water samples from noncommunity water supply wells for a semiannual bacteriological analysis and for organic or inorganic chemical analysis, if positive results are obtained through screening tests.

1. Until a bacteriologically safe or uncontaminated water sample has been obtained, the property owner must meet the following requirements:

a. Any water used for cooking or human consumption must be bottled water from a source approved by the Department of Environmental Health.

b. Any ice used on the premises must be packaged ice from a source approved by the Department of Environmental Health.

c. Any water used for sanitizing must be sanitized by a chemical additive or by heating as approved by the Department of Environmental Health.

2. If a bacteriologically safe water sample is not obtained, the property owner must have the water well disinfected and sampled until a bacteriologically safe water sample is obtained.

3. If a contaminated water sample is obtained, the property owner must take whatever action is deemed necessary by the Department of Environmental Health to obtain a potable water supply for personal use.

E. Any person with a legal interest in the affected property may request sampling and analysis of any water well on that property.

Section 7.30.040 Responsibility and Fees for Permits, Installations, Inspections and Sampling.

A. A property owner or state-licensed water well contractor registered with the City or the contractor's authorized agent shall obtain a permit prior to construction of any domestic water well to be located within the corporate limits of the City.

B. Only a state-licensed water well contractor registered with the City shall install a personal use water well within the corporate limits of the City.

C. The property owner shall be responsible for all fees for permits, and for inspection and sampling conducted pursuant to 7.30.030 A, B, C. and D. Requests for sampling by any other person with a legal interest in the property, pursuant to 7.30.030 E.

shall be paid by the requesting party, unless the property owner has given prior written consent for that testing and assumed the financial responsibility for the same. All fees are to be determined by the Department of Environmental Health Director.

Section 7.30.050 Construction and Connection Requirements.

The property owner shall be responsible for meeting the following requirements:

- A. All active, inactive, or abandoned water wells are to meet current construction, location, and plugging standards.
- B. The separation distance between wells and soils or foundations which have been treated or pretreated with a sub-surface pressurized application of a termiticide shall be in accordance with the separation distances specified by the labeling and application instructions for the termiticide used in accordance with the Federal Insecticide Fungicide and Rodenticide Act and other applicable State of Kansas Title 30 water well construction regulations. That minimum separation distance shall be presumed to be twenty-five feet, unless the property owner can demonstrate on written appeal to the Director of Environmental Health that a different distance for application of the specific termiticide used is appropriate and legally compliant. That appeal shall be heard and decided by the Director, or his or her designee, within 30 days of the receipt of the appeal, which shall be presented in writing.
- C. Pressure Water Line and Sewer Line Requirements.
 - 1. The sewer line is to be two or more feet below the water line, or:
 - 2. If a sewer line is within ten feet of a water line, the sewer line is to be constructed of cast iron pipe with fitted joints or approved plastic pipe with solvent weld joints.

D. The property owner is to have personal use water wells disconnected and connection made to a public water supply system when deemed necessary by the Director of Environmental Health, to mitigate a public health nuisance, or at the time of listing of the affected property for sale, if:

1. A public water supply system is within one hundred fifty feet of the property lines; and

2. A potable water sample cannot be obtained from a properly constructed and located existing well or a newly constructed water well.

Section 7.30.061 Registration Required.

A. It is unlawful for any person to engage in the operation of a water well drilling business within the City, unless such person has registered with the City to engage in such business.

B. No person shall be registered by the City to engage in a business of water well drilling unless such applicant is licensed as a water well driller by the State of Kansas.

Section 7.30.062 Application for Registration – Issuance.

Upon the filing with the City Treasurer of an application for registration to engage in the business regulated by this chapter, it shall be the duty of the City Treasurer to cause the application to be investigated, and if the facts therein stated are true and it shall be shown that the applicant is qualified as required by this chapter, the City Treasurer shall approve such application and register the applicant. The denial or failure to issue such registration within 30 days of the date of submission of the application shall be appealable in writing to the Director of Environmental Health.

Section 7.30.063 Registration Fee and Transferability.

The registration granted under this chapter shall be issued on an annual basis and shall not be transferable. At the time of the granting of the registration required by this chapter, the applicant shall pay to the City Treasurer all fees sufficient to cover the cost of registration as determined to be necessary for that purpose by the Director of the Department of Environmental Health. Reissuance of a registration to an existing business may be granted on or before the anniversary date of its original registration, upon its provision of current, satisfactory state licensure, and payment of a new application fee.

Section 7.30.064 Appeal of Agency Action.

Any adverse action taken by the Director may be appealed within thirty days of the date of the action to the City Council. Such an appeal shall be taken in writing to the City Clerk. The City Council shall take up the appeal for consideration at the next regularly scheduled session. The City Council is empowered to approve, deny or modify the decision of the Director. Further appeal of the decision of the City Council may be taken pursuant to K.S.A. 60- 2101(d).

Section 7.30.065 Invalidity of Part.

Should any court declare any section, clause or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional and shall not affect any other remaining section, clause or provision of this chapter.

This ordinance shall become effective and be in force from and after its adoption and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this April 6, 2004.

Carlos Mayans, Mayor

ATTEST:

Karen Scholfield, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law